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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT

(Butte)

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Conservatorship of the Person and Estate of D.B.

C085841

BUTTE COUNTY PUBLIC GUARDIAN, as  
Conservator, etc.,

(Super. Ct. No. PR-38262)

Petitioner and Respondent,

v.

D.B.,

Objector and Appellant.

D.B. appeals from a September 14, 2017 order reappointing a conservator of her person and estate pursuant to the Lanterman-Petris-Short (LPS) Act, prohibiting D.B. from exercising specified rights and privileges, and granting additional powers to the conservator. (Welf. & Inst. Code, § 5000 et seq.)<sup>1</sup> D.B. contends: (1) case-specific

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

hearsay was improperly admitted during trial; (2) the finding of grave disability and the order denying her certain rights and privileges were not supported by sufficient evidence; (3) she received ineffective assistance of counsel; and (4) the conservatorship order was contrary to the oral pronouncement of judgment.

The one-year LPS Act conservatorship terminated by operation of law, and D.B. consented in October 2018 to the trial court continuing the conservatorship for another year.<sup>2</sup> Insofar as we cannot grant any effective relief, we will dismiss the appeal as moot.

#### FACTUAL AND PROCEDURAL BACKGROUND

D.B. was diagnosed with bipolar with psychosis disorder in 1992. She also has been diagnosed with borderline personality disorder. In January 2017, the Public Guardian filed a petition for (1) appointment of a conservator of D.B.'s person and estate and (2) orders denying her the privilege to possess a driver's license, the right to enter into contracts, to refuse treatment related to grave disability, and to possess a deadly weapon.

During the August 2017 trial, Karin Mullen testified that she was D.B.'s case manager on behalf of the Butte County Department of Behavioral Health (Department) from the fall of 2015 through January 2017. In late January 2017, D.B. was hospitalized for psychiatric care in a facility in San Jose. After various placements over the next couple of months, D.B. was moved to a psychiatric health facility in Butte County in late March 2017. Before her hospitalization, D.B. had issues with her living situation and, in Mullen's opinion, was not compliant with her medication. Hospital staff planned to eventually place D.B. in an inpatient facility. Mullen believed that D.B. was gravely

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<sup>2</sup> We previously granted the motion of the Butte County Public Guardian (Public Guardian) to take judicial notice of documents related to the trial court's October 2018 order.

disabled at the time of trial because she needed assistance to manage food and shelter, especially when she was experiencing “extreme” mental health symptoms.

Dr. Carolyn Kimura, a psychiatrist and the Department’s medical director, testified at trial as an expert in the diagnosis and treatment of psychiatric disorders. Kimura had treated D.B. “many times” as an inpatient, starting in 1993. Kimura interviewed D.B. the week before trial and reviewed D.B.’s mental health records from March 2017 through the time of trial.

Kimura testified that D.B. had been transferred to the Butte County facility in March 2017 because she had assaulted a peer and refused her medication. Kimura treated D.B. during her first few months at the facility when D.B. exhibited “out-of-control, destructive, and self-injurious behaviors,” and had to be restrained.

Kimura testified that D.B. had a history of not complying with her prescribed medication, starting in 1992. Between March and May 2017, D.B. “very frequently” refused medication, so she was put on long-acting injectable medications. D.B.’s mood improved, however, and she no longer needed to be restrained. Although D.B. had begun “complaining” about the long-acting injectable medication, she had within the last month promised to take it if she became “out of control” again.

Kimura testified that, in her opinion, D.B. was gravely disabled at the time of trial. D.B. did not have adequate insight into her medical or mental health condition, especially with respect to her medication. The week before trial, D.B. had agreed with Kimura to take mood stabilizing medication, but she then refused to comply that weekend. Kimura believed D.B. could currently provide her own food, but Kimura was “concern[ed]” about D.B.’s long-term stability without adequate medication. Kimura did not think D.B. could provide for her own shelter, especially since she had assaulted two individuals at two separate placements in the past year. Kimura opined that D.B. would start “deteriorating” in a month or two. Kimura also did not think entering into contracts was currently in D.B.’s best interests.

D.B. testified that she was currently suffering from bipolar disorder. She believed the oral medication she was taking was working. If released from conservatorship, D.B. planned to stay at a local shelter until she could find a living situation with a roommate. She also planned to get a job or return to school.

A jury found D.B. to be gravely disabled in August 2017. In September 2017, the trial court appointed the conservator and found that the burden of proof had been met regarding the special disabilities. The trial court prohibited D.B. from the privilege of possessing a driver's license, the right to enter into contracts, the right to refuse treatment related to grave disability, and the right to possess firearms or other deadly weapons.

### DISCUSSION

D.B. contends the trial court improperly relied on case-specific and testimonial hearsay, contrary to *People v. Sanchez* (2016) 63 Cal.4th 665, and that her trial counsel was ineffective in failing to object to the admission of such evidence. D.B. also argues the evidence was insufficient to support (a) the jury's determination that she was presently gravely disabled, and (b) the trial court's order denying her certain rights and privileges. In addition, D.B. requests we correct the conservatorship order to conform to the oral pronouncement of judgment.

Under the LPS Act, "[a] conservator . . . may be appointed for a person who is gravely disabled as a result of a mental health disorder . . . ." (§ 5350.) A person is " 'gravely disabled' " if he or she, "as a result of a mental health disorder, is unable to provide for his or her basic needs for food, clothing, or shelter." (§ 5008, subd. (h)(1)(A).) An LPS Act conservatorship "automatically terminate[s] one year after the appointment of the conservator." (§ 5361.)

On September 14, 2018, while this appeal was pending, the 2017 conservatorship terminated by operation of law. An appellate court only decides actual controversies and will not render opinions " ' ' ' 'upon moot questions . . . which cannot affect the matter in issue in the case before it.' " ' ' ' ' ( *Giles v. Horn* (2002) 100 Cal.App.4th 206, 227.) An

appellate court will dismiss an appeal as moot if events after the judgment or order appealed from prevent it from granting any effectual relief, and the appeal does not raise an issue of public interest which is likely to recur while evading review. (*Ibid.*; see also *Conservatorship of G.H.* (2014) 227 Cal.App.4th 1435, 1439.)

D.B. contends her appeal is not moot because the same allegedly erroneous admission of case-specific hearsay is likely to recur the next time the court considers a contested annual conservatorship extension for D.B. We decline to exercise our discretionary authority to address the merits of this appeal because we presume that, going forward, the court and counsel will be aware of *Sanchez*'s reasoning and holding, and, to the extent it is applicable, lawfully apply that authority. (See *Conservatorship of K.W.* (2017) 13 Cal.App.5th 1274, 1285 [to the extent confrontation issues exist in conservatorship proceedings, expert may still rely on proper hearsay to form opinion pursuant to Evid. Code, § 801].)

Moreover, the remainder of D.B.'s contentions raise only fact-specific claims, including that the record does not contain substantial evidence to support the orders made here. These issues are particular to this case and not of continuing public interest. (See, e.g., *MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 215.) As a result, we decline to address the merits of the appeal.

#### DISPOSITION

The appeal is dismissed as moot.

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KRAUSE, J.

We concur:

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MAURO, Acting P. J.

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HOCH, J.